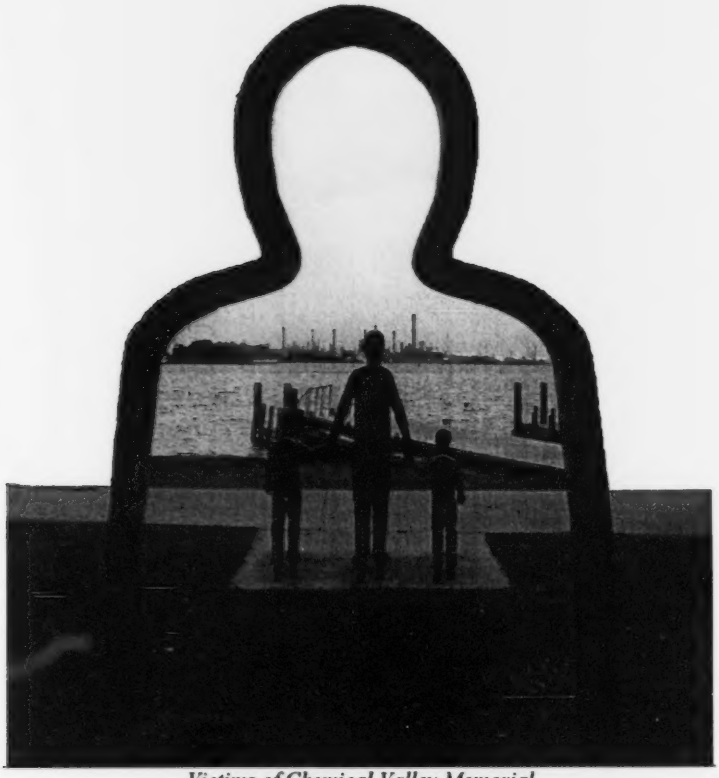
Ontario

OFFICE OF THE WORKER ADVISER



Victims of Chemical Valley Memorial

ANNUAL REPORT

APRIL 1, 2008 – MARCH 31, 2009

Victims of Chemical Valley Memorial
Centennial Park, Sarnia, Ontario

The Victims of Chemical Valley Memorial was designed by Shawn McKnight of Sarnia. It symbolizes the loss many families have suffered as a result of occupational disease and other workplace fatalities. The Office of the Worker Adviser has a satellite office in Sarnia which continues to represent many area workers, or their surviving families, in Workplace Safety and Insurance appeals.

Ontario

OFFICE OF THE WORKER ADVISER

ANNUAL REPORT

FOR THE PERIOD APRIL 1, 2008 TO MARCH 31, 2009

HEAD OFFICE
1300 – 123 Edward Street
Toronto, Ontario
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OFFICE OF THE WORKER ADVISER (OWA)

2008-09 ANNUAL REPORT

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MESSAGE FROM THE DIRECTOR

I am very pleased to present the Annual Report of the Office of the Worker Adviser (OWA) for fiscal year 2008-09, a year in which our agency reached new levels of achievement unmatched under its current mandate and staffing levels.

Fiscal year 2008-09 was the first full year of operations with the new service delivery model, which sought to increase our focus on providing full representation to injured workers in their workplace safety and insurance appeals. At year end, OWA had secured over 3,460 decisions on appeals, including over 5,900 distinct appeal issues with an overall success rate of 49%. This achievement represents a 17% improvement in positive resolutions for issues and a 7% improvement in overall results compared to any previous year during the past decade. In addition, the waiting list for representation services at year end was at a historic low of 29 files, with no files on the waiting list for more than three months.

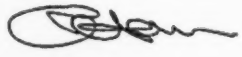
Not only were OWA achievements quantitatively unprecedented, but a significant number of the appeals decisions secured by OWA staff could be viewed as notable. Some of them are summarized later in this report under the section entitled "Significant Casework in 2008-09" and others can be found on the OWA website at www.owa.gov.on.ca/decisions.html. These decisions provide some insight into the complexity of the issues handled by our staff.

OWA continued to enhance the skills of its staff by providing in-house training in written and oral advocacy skills and by teaming up with the Ontario Bar Association to provide training updates on workplace safety and insurance law. In addition, OWA staff presented at various training events held by our system and community partners.

The Office of the Worker Adviser continued to engage with its community partners in developing additional Best Practices with the Workplace Safety and Insurance Board (WSIB) and participated in wide ranging discussions on health and safety incentives in anticipation of the recommendations of the experience rating review by the Board's consultant, Morneau Sobeco. We also made extensive submissions in response to WSIB consultations on early and safe return to work and draft occupational disease policies.

Our staff participated in a number of community events hosted by injured workers' groups and the health and safety associations. They also held regular intake clinics in several smaller communities which are some distance from our offices, and assisted in the delivery of special occupational disease clinics. Our involvement in these activities helps to deepen our understanding and appreciation of problems faced by injured workers and their survivors.

I would like express my gratitude for the support our community and system partners have continued to extend us and thank all of our staff for achieving these outstanding results.



Jorma Halonen
Director, OWA

INTRODUCTION AND BACKGROUND

The Office of the Worker Adviser ("OWA") was established in 1985 under the *Workers' Compensation Act,* as a branch of the Ministry of Labour (the "Ministry"), to be an advocacy service for injured workers. In 1992, the OWA (along with the Office of the Employer Adviser) became an agency of the Ministry of Labour.

The Director of the Office of the Worker Adviser is an Order-in–Council appointment by the Minister of Labour. The memorandum of understanding between the OWA and the Minister of Labour (the "Minister") provides that the Director of the OWA will report to the Minister annually. This report covers the fiscal year ending March 31, 2009.

MANDATE AND SERVICES

The OWA's mandate, established by s. 176(1) of the *Workplace Safety and Insurance Act, 1997* (the "Act"), is "to educate, advise and represent workers who are not members of a trade union and their survivors".

OWA's Vision is to:

- be a leader in advice, representation, and education on workplace insurance on behalf of the most vulnerable injured workers and their survivors;
- provide a vital public service that contributes to the effective functioning of Ontario's workplace insurance system and supports a healthy workforce as a foundation for a strong, vibrant provincial economy; and,
- contribute to improvements to workplace safety and insurance through community and system partnerships.

Over 88% of former OWA clients surveyed in 2008-09 indicated that they were 'very satisfied' with the service they had received from the OWA. Comments received from clients over the past year included:

- "[Worker Adviser] was my hero. She gave me hope when I really needed it. Your office is a real life saver (emotionally and financially and mentally)"
- "…During my difficulties with WSIB, you were my angels in the dark."
- "I waited 9 years for this and you guys got if for me. Thank you [Worker Adviser]."
- "I could not have made it through the process without your help. My Adviser was brilliant."
- "…My advisor was very passionate about her job. My mental health would have been very compromised if not for her really caring."
- "Very useful resource for WSIB clients. It really helped us out a lot & improved relationships with WSIB."
- "You can't improve on perfection. I was treated with respect and dignity in a matter that took a long 10 years to settle…"
- "I want to thank [Worker Adviser] and his staff for all the support they provided my family during this process. My father will be smiling from Heaven."

SERVICE DELIVERY – AN OVERVIEW

1) OWA Service Delivery

In order to be responsive to increasing numbers of complex cases, including growing numbers of occupational disease clusters across the province, the OWA re-organized its service delivery in

2007-08 by shifting its resources. The 2008-09 fiscal year represents the first full year with the modified service delivery model. Under the revised model:

- Program Assistants provide basic information to all those who call the OWA for help, utilizing the OWA Website as an integral tool to provide comprehensive self-help information; and
- Worker Advisers provide advice to workers in crisis and in pressing cases, as well as representation services in the more complex situations.

In 2008-09, OWA staff visited Brantford, Barrie, Belleville, Brampton, Kingston, North Bay, Oshawa, Pembroke, Peterborough, Stratford, and St. Thomas. Our satellite office in Sarnia continued to deal with occupational disease cases in the region. Through the outreach activities, OWA successfully increased its accessibility, allowing disabled workers to meet with Advisers in person and close to their home communities, instead of having to travel to more distant locations.

In addition to serving individual clients, the OWA continued to build partnerships and referral relationships with MPPs and key organizations in local communities.

2) Central Client Services Unit

OWA's Central Client Services Unit (CCSU) has responsibility for central services relating to:

- internal legal advice and assistance to the OWA
- advice and representation in legally complex and/or precedent setting cases for OWA clients
- system improvement initiatives
- education materials and sessions for OWA staff and other representatives
- education materials for the public

The General Counsel/Manager of CCSU along with four permanent full-time and one temporary half time Legislative Interpretation Specialists (LIS) carried out these functions. Highlights of CCSU work in the areas of representation, education and system improvement are included in the relevant sections of this report.

KEY ACHIEVEMENTS

1) Advisory Services

In order to focus staff resources on the more vulnerable workers and the more complex cases, workers who initially contact the OWA for assistance are provided with basic information, in the form of summary advice, to assist them in handling their workplace insurance issues on their own. Much of this information is available on the OWA website.

In 2008-09, OWA assisted 82% of the injured workers who contacted our offices with information and advice and actively represented the other 18% (see Table 1). The proportion of cases receiving only advice has remained relatively stable since 2004-05, at which time the number of new requests for service increased once again to over 18,000, after a three year period of significantly lower levels of demand

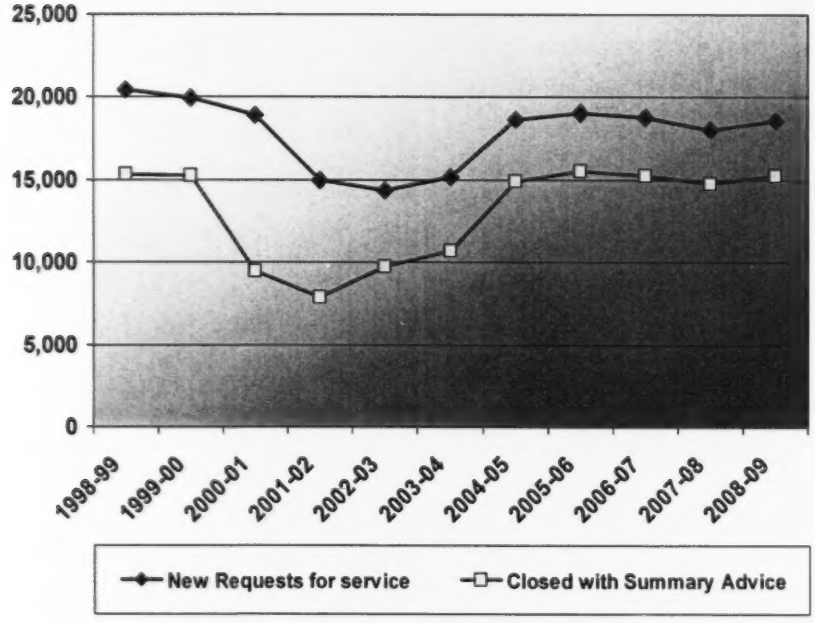
OWA's overall workload and effectiveness is indicated by the number of different clients served during the fiscal year. In 2008-09 OWA assisted 13,643 different injured workers – an increase of 3% from 2007-08 levels.

The OWA supplements its advisory services with publications written specifically for injured workers. These fact sheets are available in paper form (in French and English) and can also be downloaded from the OWA website. On average over the past fiscal year, each month 5560 different people visited the OWA website to download over 2750 self-help fact sheets. Overall, the website had between 180,000 and 260,000 hits per month. In addition to the fact sheets, the website provides a glossary of compensation terms, all forms needed for appeals, street maps to OWA offices, clinic times and locations, answers to frequently asked questions, and a direct link to contact us through e-mail inquires.

Table 1: Incoming Requests for Service and Advice

Fiscal Year	1998 - 1999	1999 - 2000	2000 - 2001	2001 - 2002	2002 - 2003	2003- 2004	2004 - 2005	2005 - 2006	2006 - 2007	2007 - 2008	2008 - 2009
New Requests for Service	20,457	19,953	18,929	14,363	14,363	15,182	18,641	19,034	18,792	18,025	18,552
Requests Closed with Summary Advice	15,313	15,256	9,495	7,848	9,705	10,729	14,903	15,520	15,279	14,775	15,249

Chart 1: Incoming Requests for Service and Advice in the Past Decade



2) Representation Services

Case Review

In an effort to ensure that the OWA is using its resources to assist those workers who most require them, only those cases with a "reasonable" chance of success are offered representation services.

Previously the standard required that a case have a "significant" chance of success. As a result of the change in service delivery the standard for review was relaxed in the latter half of the 2007-08 fiscal year, in recognition of the fact that some very vulnerable workers who truly required the assistance of the OWA were being refused service.

In 2008-09 the OWA reviewed 2,911 cases and selected 1,789 of these cases for representation. This represents an increase of 19% over the 2006-07 fiscal year, the last full fiscal year with the more stringent case review standard, and a 5% increase over the 2007-08 fiscal year, when the case review standard was relaxed at the mid-year.

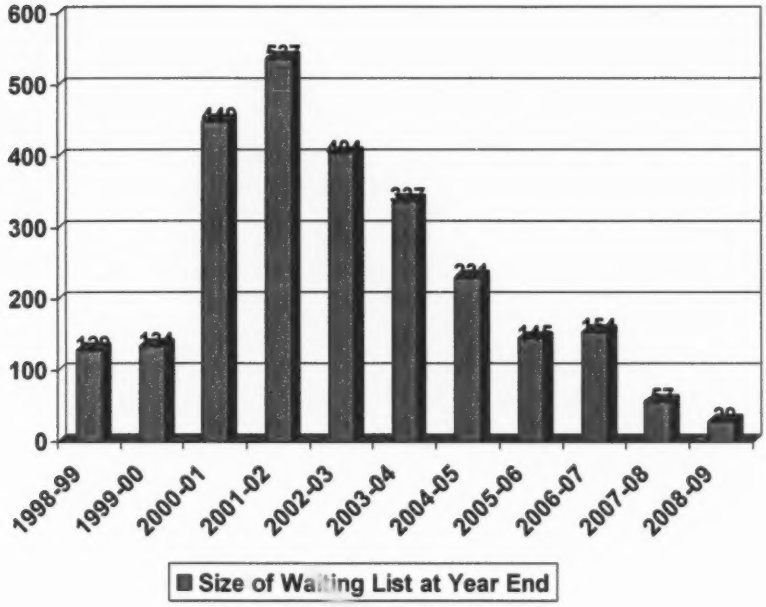
Table 2: Review of Incoming Work and Selecting Cases for Representation

Cases Selected	04-05	05-06	06-07	07-08	08-09	% change from 07-08 to 08-09
Number of New Requests for Service	18,641	19,034	18,792	18,025	18,552	+3%
Number of Cases Reviewed for Representation	2,796	2,599	2,652	2,841	2,911	+3%
% Cases Reviewed for Representation of total New Requests for Service	15%	14%	14%	16%	16%	0%
Number of Cases Selected for Representation	1,465	1,421	1,500	1,706	1,789	+5%
Number of Cases selected out	1,331	1,178	1,152	1,135	1,122	-1%

Waiting List for Appeal Level Representation Services

With the change in service delivery, the OWA's waiting list had decreased by 63% to 57 cases by 2007-08 fiscal year end. At March 31, 2009, the waiting list had decreased by a further 49% to a historic low of 29 cases. At the same time the OWA continued to meet its performance commitment by commencing over 93% of appeals within 120 days of the initial case review. The average age of files on the waiting list was one month, with no files on the waiting list at the fiscal year end for more than 120 days.

Chart 2: Reduction of Waiting List for Representation



Decisions

The OWA represents more injured workers than any other single organization in the province. By the end of March 2009, the OWA had 3,480 open representation cases, an increase of 180 cases over the previous fiscal year.

In terms of overall numbers, in 2008-09 OWA staff obtained a total of 3,465 decisions from the adjudication and appeals levels of the Board and from the Tribunal, an increase of 16% over the previous fiscal year.

The number of issues in these decisions also increased by 22% from 4,890 in 2007-08 to 5,943 in 2008-09. If the number of issues resolved for injured workers is viewed over a longer term, as seen in Chart 3, it is evident that the increase in the number of issues has been significantly greater than the increase in the number of decisions. This reflects the continued growth in case complexity as well as OWA's increased success in appeals.

With respect to appeal level decisions, the OWA obtained more decisions than at any time in the past decade. In addition, more issues in OWA appeals were decided and more positive resolutions obtained than at any time since 1988-89. This achievement is largely attributable to the additional Worker Advisers who were hired during the 2007-08 fiscal year.

Chart 3: Results from OWA Representation

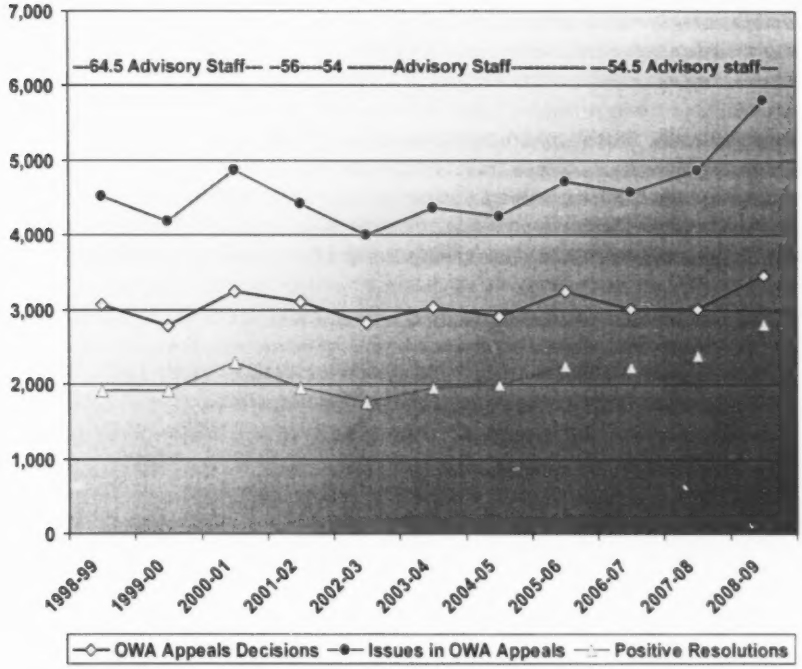


Table 3: Decisions by Level

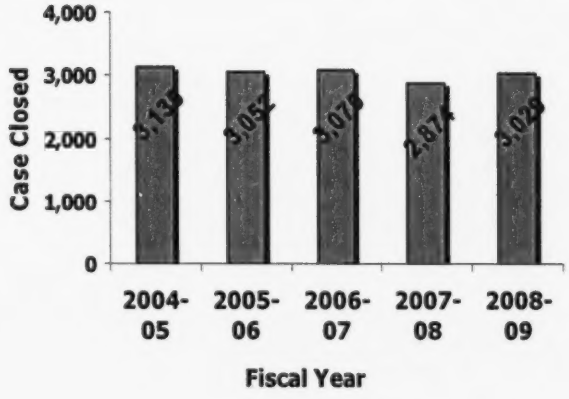
Decisions by Level Use of Early (EDR) and Alternative Disputes Resolution (ADR)	2004-05	2005-06	2006-07	2007-08	2008-09
WSIB – Operating Level	1,877	1,727	1,619	1,614	1,915
WSIB – Appeal Level	795	1,048	962	876	968
WSIAT	370	409	419	494	582
TOTAL Decisions by EDR/ADR from all Levels	2,389	2319	2,270	2,144	2,510
% Total Decisions by EDR/ADR	**79%**	**73%**	**76%**	**72%**	**72%**
TOTAL DECISIONS FROM ALL LEVELS	**3,042**	**3,184**	**3,000**	**2,984**	**3,485**
TOTAL ISSUES IN DECISIONS FROM ALL LEVELS	**4,440**	**4,816**	**4,674**	**4,890**	**5,943**

Case Closures

The case closure rate is a measure of OWA's capacity to manage its workload. In short, the faster cases are resolved, the more quickly injured workers are able to reclaim their lives, the more workers OWA is able to help, and the shorter the waiting lists for service become. There are a number of variables that impact on file closure rates, especially the number of actual advisory staff available in any given year, the number and complexity of new incoming cases, and the proportion of files closed by case review versus full representation.

OWA's case closure measure, reported in Figure 4, includes both early resolution and full representation cases, as well as cases diverted from the appeals system through case review. The OWA closed 3029 representation cases in 2008-09, a 5% increase over the previous fiscal year. This increase in closures reflects the immediate and positive impact of the additional staff hired in the latter part of the 2007-08 fiscal year. Given that it takes, on average, 30 months to resolve a case however, further gains in the closure rate are expected in the 2009-10 fiscal year.

Chart 4: Representation Cases Closed



HIGHLIGHTS OF OWA CASEWORK

1) Significant Casework in 2008-09

Occupational Disease—The OWA continued representation at WSIAT and WSIB in a number of occupational disease clusters in various locations throughout the province. The claims arising from these clusters are at all various stages of adjudication in the system from initial evidence-gathering up to WSIAT.

Mental Stress—One of the OWA's mental stress Charter challenge cases will begin its hearing at WSIAT in summer 2009. If the Tribunal finds the worker would be eligible for WSIB benefits but for ss. 13(4) and (5) of the WSIA, the OWA will present arguments that those sections of the Act offend the equality guarantees in the *Charter of Rights and Freedoms* and the *Ontario Human Rights Code*. The OWA took on several more chronic mental stress cases in the past year. It will take several years for these cases to work their way to WSIAT.

Age Discrimination—The OWA is representing a worker who was seriously injured in a workplace accident at the age of 66 and subsequently had his leg amputated. In accordance with s. 43(1)(c) of the Act, the Board terminated the worker's loss of earnings benefits two years after the accident, though the worker continued to be disabled as a result of the workplace injury.

The OWA is pursuing this claim to test the argument that the limitation on benefits for older workers is discriminatory and violates the equality provisions of the Charter. With the assistance of two legal clinics, OWA has been gathering the background material and sociological evidence necessary to support a Charter challenge. OWA also reviewed several other age discrimination cases for possible representation.

Time Limits—CCSU continued to provide significant support to individual staff and to the agency on issues related to statutory time limits. This included extensive review of a number of cases, tracking OWA cases involving missed time limits, and analyzing and reporting on OWA's experience.

Mills v. Workplace Safety and Insurance Appeals Tribunal—The Ontario Court of Appeal released its decision in this appeal of a successful judicial review of a WSIAT decision. The OWA, working with outside counsel, had represented a worker in responding to a leave application and subsequent appeal to the Court of Appeal. Following the release of the Supreme Court of Canada decision in *Dunsmuir v. New Brunswick*, the parties made further submissions regarding the standard of review. The Court of Appeal found that the standard of review for WSIAT decisions was reasonableness and allowed the Tribunal's appeal.

2) Noteworthy WSIAT Decisions

The OWA obtained many noteworthy decisions during the 2008-09 fiscal year. A selection of these decisions is provided below. For many other Tribunal decisions of interest, please consult the "Summaries of WSIAT Decisions Involving OWA" link on the home page of OWA's website at www.owa.gov.on.ca.

Decision No. 2352/06 **(April 15, 2008)—Compensable neck injury cause of fatal tractor rollover**
The OWA represented the common law spouse of a worker who was killed at his home when the tractor he was operating rolled over. The worker had a significant pre-existing compensable injury that required him to turn his body to see behind him. When he did so, he accidentally activated a control that raised the tractor's bucket, causing it become unstable and roll over. WSIAT found that the compensable injury made a significant contribution to the worker's death and allowed survivor benefits.

Decision No. 915/08 **(April 21, 2008)—Apartment superintendent's heart attack compensable following confrontation with tenant**
The OWA represented the superintendent of an apartment building. In response to complaints from other tenants, the worker entered into a tenant's apartment uninvited and was involved in an altercation with him. He had a heart attack following the incident. WSIAT found that, although he showed poor judgment, the worker was in the course of employment and the heart attack was compensable.

Decision No. 495/06R **(May 12, 2008), 85 W.S.I.A.T.R. (online)—Worker not required to work extra hours to mitigate wage loss**
The OWA successfully sought a reconsideration of an earlier WSIAT decision. On reconsideration, WSIAT found that a worker's suitable employment or business should

approximate, as closely as possible, the same number of hours worked prior to the injury. A worker should not have to work additional hours post-accident to mitigate a wage loss.

Decision No. 1536/06 **(August 27, 2008)—Worker granted entitlement for Parkinson's disease arising from exposure to paint and solvents**
The OWA represented a worker who sought entitlement for Parkinson's disease related to exposure to paint and solvents. The medical evidence, including a report from a WSIAT medical assessor, was split on the issue of causation. WSIAT applied the statutory benefit of the doubt in favour of the worker and granted entitlement.

Decision No. 170/08 **(September 4, 2008)—Prohibition against stacking of benefits cannot be used to avoid compensation for totality of impairment**
The OWA represented a worker in a claim for chronic pain disability (CPD). WSIAT found that, although WSIB policy prohibits "stacking" of awards for CPD and "organic" injuries, the rule cannot be used as an excuse to avoid compensating the totality of a worker's impairment. A holistic rating approach that reflects a worker's full impairment is not double compensation.

Decision No. 400/08 **(September 22, 2008) —Prior out-of-province mining exposure is pre-existing vulnerability for lung cancer**
The OWA represented an Ontario uranium miner in a claim for lung cancer. The worker had 14 years of earlier gold mining experience in another province. The worker did not have the level of exposure required under the WSIB policy, but WSIAT found that the out-of-province gold mining exposure was a pre-existing vulnerability and allowed the appeal.

Decision No. 776/06 **(November 10, 2008), 87 W.S.I.A.T.R. (online)—Worker's fatal heart attack caused by treatment for lung cancer arising from compensable crush injury to thumb**
The OWA represented the estate and spouse of a worker who had died of a heart attack. The worker developed cancer in his thumb following a compensable crush injury. The cancer metastasized to the lung. WSIAT found that radiation treatment for the lung cancer made a significant contribution to coronary artery disease and, ultimately, to the workers death. The spouse was granted entitlement to survivor benefits.

Decision No. 2812/07ER **(October 27, 2008)—Extension of appeal time limit where previous representative acted incompetently**
The OWA requested a reconsideration of a WSIAT decision denying an extension of time to appeal. On the facts, the worker had asked his previous representative to appeal an ARO decision. The representative had assured him that the appeal had been filed when it had not been. On reconsideration, the Tribunal granted the extension of time on the grounds that a representative's incompetence should not prejudice a worker who intended to appeal.

Decision No. 2173/06R **(November 13, 2008)—WSIAT panel erred in finding custodian killed while setting up for church Christmas pageant was not in course of employment**
The OWA sought reconsideration of a WSIAT decision that a church custodian was acting as a volunteer when he was killed in a fall from a ladder while helping set up for the church's Christmas pageant. Because he was a volunteer, there was no entitlement for the accident. On reconsideration, WSIAT held that the original panel had erred by focusing on the wrong legal test. A new hearing was ordered.

Decision No. 1240/05 **(January 13, 2009)—Volunteer firefighters are counted as "workers" for purposes of determining whether re-employment obligation applies**
The worker was an equipment operator for a small municipality. The OWA argued that the employer was obliged to re-employ the injured worker under s. 41 of the WSIA. Since s. 41 only applies to employers who regularly employ 20 or more workers, at issue was whether or not volunteer firefighters were considered "workers" for the purpose of the count. WSIAT allowed the

appeal, holding that volunteer firefighters were "workers" for the purpose of the threshold test in s. 41.

3) Educational Services

The OWA provides educational services to injured workers through information sessions held in communities across the province and through the provision of general information from the OWA website, which contains a comprehensive collection of fact sheets, kits and frequently asked questions on workplace insurance topics.

During 2008-09, the OWA held 144 educational sessions, including information sessions and self-help clinics for injured workers, in communities throughout the province. In addition, the OWA provides higher-level educational services to community and system partners and representatives who work in the field of workplace insurance.

Highlights of Educational Sessions

Osgoode Hall Law School, Professional Development LLM Program (April 2008)—The OWA's general counsel delivered a presentation entitled "Recognition of Non-traumatic Injury: Occupational Disease and Mental Stress" to students enrolled in the part-time Master of Laws program.

Ontario Bar Association, Fifth Annual Current Issues in Workplace Safety and Insurance Law (May 2008)—Staff from CCSU presented papers on the Bill 187 amendments to the WSIA and constitutional challenges in WSIB and WSIAT appeals.

OWA Worker Adviser Learning Conference (May 2008)—OWA staff, including CCSU and worker advisers, planned and delivered a one-day conference for worker advisers covering current issues and practical skills in workplace insurance law. Topics included legislative and policy changes, reconsiderations and rating permanent impairment.

CAW, National Workers' Compensation Conference (September 2008)—OWA staff, including CCSU and a worker adviser, presented workshops on advocacy in occupational disease and musculoskeletal injury claims to a national audience of union representatives.

Lancaster House, Workplace Safety and Insurance Conference (November 2008)—The OWA's general counsel co-chaired this important annual conference.

Occupational Disability Response Team, 2008 Workers' Compensation Symposium (November 2008)—A staff member from CCSU presented on the WSIB's draft occupational disease policies.

OWA Written Advocacy Course (February 2009)—CCSU staff delivered a 1.5 day course on written advocacy to worker advisers. Topics included written communications with decision-makers, clients and physicians.

Ontario Legal Aid Clinics, Canada Pension Plan and Workers' Compensation Training (March 2009)—OWA presented on the current situation regarding human rights issues at the Workplace Safety and Insurance Board and at the Workplace Safety and Insurance Appeals Tribunal.

OTHER KEY ACTIVITIES IN 2008-09

1) System and Community Partnerships and Committee Work

WSIB Best Practices Working Groups
A number of OWA staff, along with other worker-side representatives, continued to work with senior Board staff to develop additional adjudicative advice documents and best practice guides aimed at improving the fairness and consistency of Board decision making.

WSIB Best Practices Steering Committee
The OWA Director sits on this committee, which is comprised of a small number of key worker-side representatives and senior Board staff who determine the issues to be referred to the Best Practices Working Group. This committee reviews and comments on documents produced by the working groups. It also discusses broader systemic compensation issues impacting workers.

Some major areas of discussion during 2008-09 involved the following issues:

- Survey of claimants who registered as no lost time but later converted to lost time claims.
- WSIB reporting "critical injuries" to the Ministry of Labour.
- Pilot of Non Economic Loss "paper assessments" in response to delays.
- Placing old Board policies on the WSIB website.
- The absence of system generated letters and documents in WSIB files.

***Workplace Safety and Insurance Appeals Tribunal (WSIAT) Advisory Committee*:**
The WSIAT Advisory Committee includes the WSIAT Chair and other senior officials and members representing both the worker and employer communities. In 2008-09, the most important discussions of this committee focused on the impact of paralegal regulation on the appeal process.

MPP Constituency Offices: Constituency Offices were surveyed during the 2008-09 fiscal year in order to assess whether the OWA was meeting the needs of MPPs and their staff. As a result of these surveys, a number of information sessions were arranged. In addition, OWA offices continued to both accept referrals from and provide information to constituency offices upon request. In 2008-09 there were 261 cases referred from MPP offices to the OWA.

***Fatalities and Immediate Response (FAIR) Partnership*:** The OWA, the Workplace Safety and Insurance Board, the Ministry of Labour Operations Division and a support group for families called Threads of Life continued an innovative partnership to improve services and support to families of workers killed on the job. The goal of the FAIR Partnership is to provide survivors with timely, seamless, and comprehensive assistance and referrals following a traumatic workplace fatality.

Plant Closures and Occupational Disease Clusters: OWA continued to work with labour organizations in response to plant closures and emerging occupational disease clusters. During the 2008-09 fiscal year OWA staff accepted transfer of files from the union in the case of a recently closed workplace in Southwestern Ontario. In addition, OWA staff agreed to provide representation with respect to a newly emerging occupational disease cluster, again in Southwestern Ontario.

Partnership with OHCOW: OWA established an Occupational Disease Advisory Group (ODAG) during the latter part of the 2008-09 fiscal year, with a mandate to identify barriers and recommend solutions to the effective and timely representation in occupational disease claims. ODAG has initiated discussions with the Occupational Health Clinics for Ontario Workers (OHCOW) to identify ways we can work together to more effectively address the scientific and medical challenges posed by complex occupational disease cases.

Outreach with the medical community and other community partners: The OWA sponsored an educational event with the medical community in Southwestern Ontario in order to ensure a better understanding of the role, both legal and ethical, of the health care practitioner in the workplace insurance system. OWA also participated in a Community Learning Session with medical students from Laurentian University to introduce them to the OWA and to their role as physicians in the workplace insurance system.

Formal Policy and/or Law Reform Submissions

Law Commission of Ontario, Consultation on the Law As it Affects Older Adults—The OWA provided submissions in response to the LCO's project on the development of a coherent approach to the law as it affects older adults. The OWA expressed concern that the needs and experiences of older injured workers were not being addressed and submitted that the age-based criteria in the *Workplace Safety and Insurance Act, 1997* warranted the LCO's attention.

WSIB, Consultation on Proposed Policies for Early and Safe Return to Work in Construction—CCSU staff made written submissions to the WSIB on the proposed ESRTW policies in the construction industry. These submissions expressed our ongoing concern that successful return to work requires care and commitment from all parties.

WSIB, Consultation on Draft Occupational Disease Policies—CCSU staff made written submissions to the WSIB on its draft operational policies on occupational disease. The OWA was generally supportive of the draft policies, particularly with respect to the WSIB's recognition of the legal principles applicable in occupational disease adjudication. A number of changes were recommended, however, in order to ensure more effective adjudication and proper application of the legal principles.

2) OWA Transfer Payment Program

The OWA administers and ensures accountability for transfer payment program. The Minister of Labour approves the funding for the Building and Construction Trades Council of Ontario [PBCTCO], as part of the OWA's Business Plan submission.

The purpose of the PBCTCO program is to develop and deliver workplace insurance related training specific to the needs and concerns of the construction sector and its members, taking into consideration the transient nature of construction trades work. The key objectives of the program are two-fold. The first is the provision of training for union representatives to facilitate the "self reliance" model that requires the workplace parties to negotiate and administer return to work (RTW) plans. The second objective is to raise overall awareness about workplace insurance issues among members of the building trades unions and to facilitate issues resolution. The PBCTCO funding program provides extensive mentoring and support for union representatives which, combined with the formal training, results in a significant increase in the number of cases handled by knowledgeable and experienced staff.

The OWA reviews and approves the PBCTCO Annual Business Plan and manages the transfer payment program according to the provisions of the annual Service Level Agreement. The reporting includes performance measures, training outcomes and financial information on a quarterly and annual basis. The OWA carries out a review of all submissions and reports on the results to the Minister.

3) Technology and Information Management in Support of Client Services

OWA's Case Management System (CMS)

A number of improvements to OWA's web based case management system (CMS) were developed and implemented in the 2008-09 fiscal year, enhancing staff's ability to provide timely service to clients. In addition, significant strides were made in expanding keyboard options to minimize the use of the mouse and in providing macros to facilitate the use of voice recognition software in efforts to address health and safety concerns of staff.

The CMS continues to be a true technology enabler for OWA staff. Its infrastructure and interface ensures faster response to clients and provides a more effective means for improvements in OWA's client services.

OWA Website: ***http://www.owa.gov.on.ca***

The OWA website contains over 800 pages including an introductory OWA fact sheet in 21 languages. In addition to three detailed workers' information kits and 40 Fact Sheets, the site contains a comprehensive list of links to workplace insurance related resources across the country. The site continues to be accessible to visually impaired persons.

The OWA website also features up to date information on significant decisions outlining the successful work done by OWA staff on behalf of injured workers and their survivors.

Knowledge Management

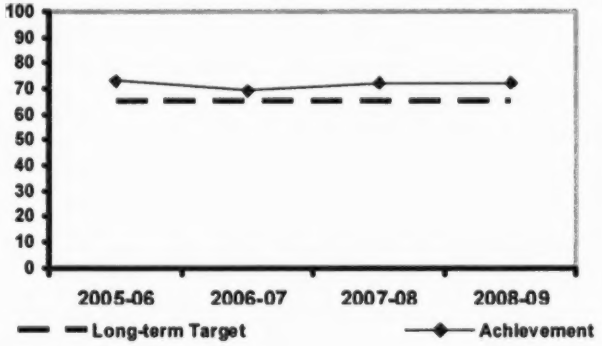
In 2008-09 the OWA launched its new SharePoint site, which provides staff with updates on important issues, tips on research, and a forum for discussions and for the sharing of experiences and work related information. It provides quick and ready reference to internal documents such as procedures and OWA templates, along with links to both OPS and workplace insurance related sites. It also allows different groups and committees within the OWA to have shared folders and work spaces, as well as providing reliable and readily accessible archives of information.

OWA staff continue to create a large number of generic workplace insurance related resource materials that contribute to more effective case preparation. Consequently, the web based, electronic catalogue of research materials continues to grow, resulting in a significant increase in knowledge retention and knowledge transfer within the organization. In addition, the data base is regularly expanded by the addition of new external legal and medical resources, notices of which are communicated through the SharePoint site.

APPENDIX A – OUTCOME PERFORMANCE MEASURE

Performance Measure #1: Early and Alternative Dispute Resolution

Percentage of Decisions Obtained by EDR or ADR



Agency Contribution

Whenever possible OWA seeks to provide support for early and safe return to work and for early resolution of disputes without recourse to formal hearings, both by diverting cases from the appeals system and by pursuing opportunities for alternative dispute resolution at the appeals level.

What does the graph show?

This graph shows the proportion of decision results for OWA appeals that were achieved without formal hearings. The reduced long-term commitment reflects an anticipated increase in case complexity which, in turn, is expected to impact OWA's ability to resolve disputes without resorting to formal hearings.

2008-09 Year End Performance Achievements

72% of all decisions were obtained by EDR or ADR, however, as the service delivery continues to shift toward more complex representation, it is anticipated that the long-term target will remain at 65%.

APPENDIX B – INTERNAL PROGRAM PERFORMANCE ACHIEVEMENTS

Measure	Standard/Long Term Target	2007-2008 Achievement	2008-2009 Commitments	2008-2009 Year End Achievements (as of March 31, 2009)
Early and Alternative Dispute Resolution	65% of all decisions to be obtained by early (EDR) or alternative dispute resolution (ADR)	72% of all OWA decisions were obtained by early or alternative dispute resolution, however, as service delivery continues to shift to more complex representation, the long term target remains at 65%.	OWA expected to achieve at least 65% of all issues resolved by EDR or ADR.	OWA exceeded commitment by resolving 72% of all issues by EDR or ADR
Effectiveness of advisory & representation services	Original long term target was 150 issues per FTE. Results for the past two years, however, now suggest a higher long term target of 200.	203 advisory and representation issues per staff were recorded.	With the updated case management system OWA is able to determine the number of appeal issues for which results were secured, as well as the number of advisory events. The original commitment for 08-09 was 150 issues resolved per FTE. This goal was significantly exceeded.	219 issues per staff were achieved through advice and representation.
Timeliness of Appeals Representation Service	100% of all cases involving appeals representation service to commence within 120 days of commitment.	Work commenced on 89% of appeal cases within 120 days of commitment to represent.	OWA's commitment was to maintain or improve 2007/08 timeliness.	OWA once again moved toward its long term target by opening 93% of all cases involving appeals representation service within 120 days.

APPENDIX C – FINANCIAL REPORT FOR THE FISCAL YEAR 2008-2009

All Figures in $000.0 thousand

Account	Final Budget*	Total Actual Expenditures**	Variance	Explanation
Salary & Wages	**7,317.8**	**6,916.1**	**401.7**	Recruitment to replace vacancies delayed
Benefits	**1,523.2**	**1,740.2**	**(217.0)**	Payment of maternity leave benefits and severance
ODOE				
Transportation & Communications	392.4	386.2	6.2	
Services (incl. Office Leases)	1,505.2	1,550.2	(45.0)	
Supplies & Equipment	127.3	178.3	(51.0)	
ODOE TOTAL	**2,024.9**	**2,114.7**	**(89.8)**	
Transfer Payment	**225.0**	**250.0**	**(25.0)**	Approval of additional $25,000 for TP program
OWA TOTAL	**11,090.9**	**11,021.0**	**69.9**	
Recoveries	**(11,089.9)**	**(11,021.0)**	**(68.9)**	
TOTAL	**1.0**	**0.0**	**1.0**	

* Final Budget = Printed Estimates+/- TBO, re-alignment of funds by standard account.
** Total Actual Expenditures including office lease cost.

APPENDIX D – OWA OFFICE LOCATIONS

TORONTO & EASTERN REGION

HEAD OFFICE & TORONTO OFFICE
Office of the Worker Adviser
123 Edward Street
Suite 1300
Toronto ON M5G 1E2

SCARBOROUGH OFFICE
Office of the Worker Adviser
305 Milner Avenue
Suite 918
Scarborough ON M1B 3V4

MISSISSAUGA OFFICE
Office of the Worker Adviser
10 Kingsbridge Garden Circle
Suite #512
Mississauga ON L5R 3K6

OTTAWA OFFICE
Office of the Worker Adviser
347 Preston Street, 3rd Floor
Ottawa, ON K1S 3H8

SOUTHWEST REGION

LONDON OFFICE
Office of the Worker Adviser
495 Richmond Street
Suite 810
London ON N6A 5A9

HAMILTON OFFICE
Office of the Worker Adviser
119 King Street West
13th Floor
Hamilton ON L8P 4Y7

WINDSOR OFFICE
Office of the Worker Adviser
880 Ouellette Avenue
Suite #601
Windsor ON N9A 1C7

ST. CATHARINES OFFICE
Office of the Worker Adviser
301 St. Paul St.. 9th Floor
St. Catharines ON L2R 7R4

NORTHWEST REGION

SAULT STE. MARIE OFFICE
Office of the Worker Adviser
70 Foster Drive
Suite 480
Sault Ste. Marie ON P6A 6V4

THUNDER BAY OFFICE
Office of the Worker Adviser
435 South James Street
Suite 335, 3rd Floor
Thunder Bay ON P7E 6S7

TIMMINS OFFICE
Office of the Worker Adviser
60 Wilson Avenue
Suite 303, 3rd Floor
Timmins ON P4N 2S7

ELLIOT LAKE OFFICE
Office of the Worker Adviser
50 Hillside Drive North
Elliot Lake ON P5A 1X4

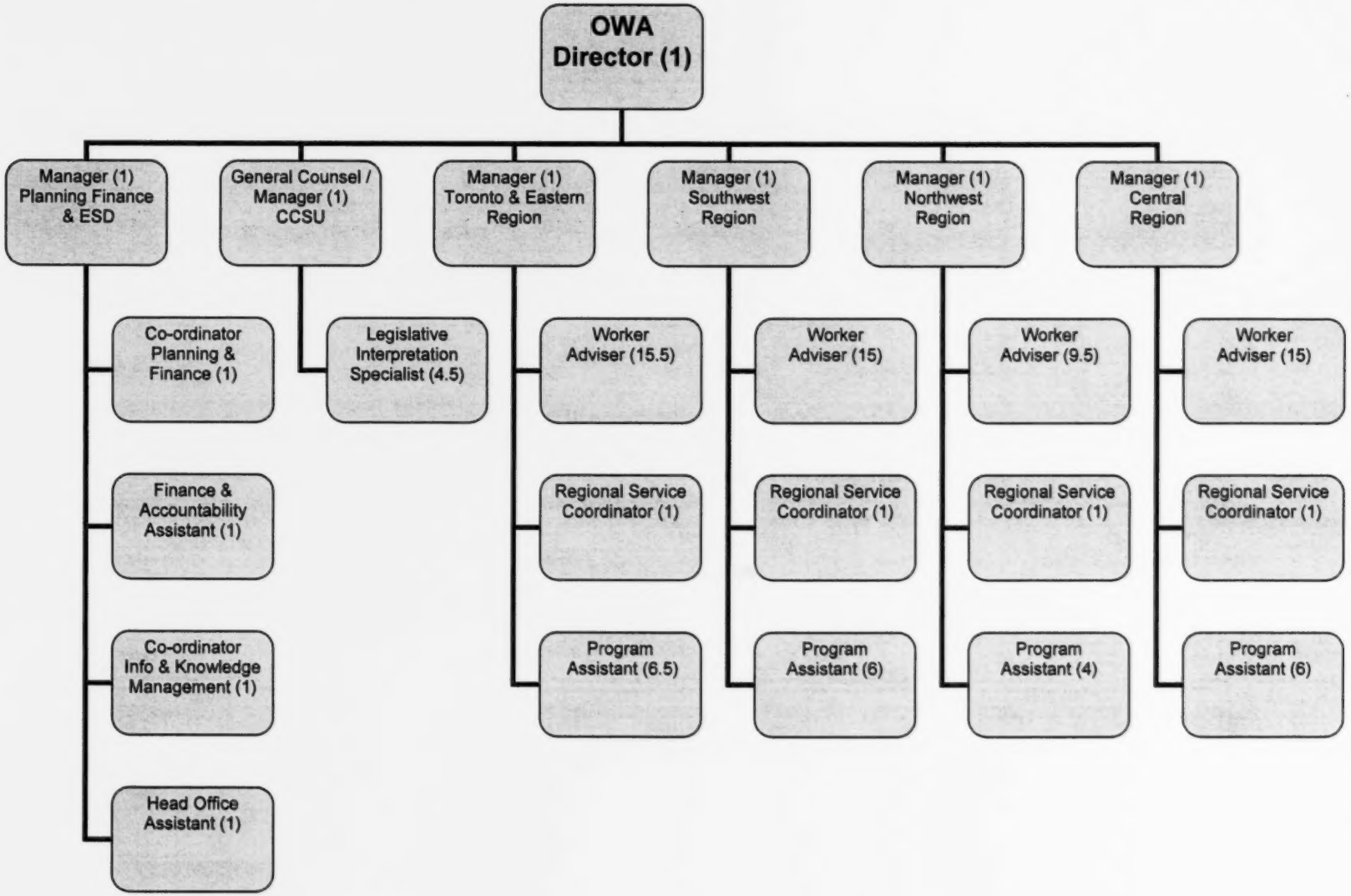
CENTRAL REGION

SUDBURY OFFICE
Office of the Worker Adviser
159 Cedar Street
Suite 304
Sudbury ON P3E 6A5

DOWNSVIEW OFFICE
Office of the Worker Adviser
1201 Wilson Avenue
Building C, Suite 125
Downsview ON M3M 1J8

WATERLOO OFFICE
Office of the Worker Adviser
155 Frobisher Drive
Unit G (213)
Waterloo ON N2V 2E1

APPENDIX E – ORGANIZATION CHART


OWA Director (1)
Manager (1) Planning Finance & ESD
General Counsel / Manager (1) CCSU
Manager (1) Toronto & Eastern Region
Manager (1) Southwest Region
Manager (1) Northwest Region
Manager (1) Central Region
Co-ordinator Planning & Finance (1)
Finance & Accountability Assistant (1)
Co-ordinator Info & Knowledge Management (1)
Head Office Assistant (1)
Legislative Interpretation Specialist (4.5)
Worker Adviser (15.5)
Regional Service Coordinator (1)
Program Assistant (6.5)
Worker Adviser (15)
Regional Service Coordinator (1)
Program Assistant (6)
Worker Adviser (9.5)
Regional Service Coordinator (1)
Program Assistant (4)
Worker Adviser (15)
Regional Service Coordinator (1)
Program Assistant (6)

2008-2009 OWA STAFF ALLOCATION = 97 FULL TIME EQUIVALENTS (FTE)